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JAN 17 2019

U.S. DISTRICT COURT
GREENVILLE, S.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

W. Robert Wardell, Jr.)
Plaintiff,) No. 0:18-mc-255-DCN-PJG
v.)
Renea Royster,)
Defendants.)
_____)

Don Mitchell Wilborn,)
Plaintiff,) No. 0:18-mc-355-DCN-PJG
v.)
Renea Royster,)
Defendants.)
_____)

MOTION TO VOLUNTARILY DISMISS ACTION

COMES NOW the Plaintiffs, W. Robert Wardell, Jr. and Don Mitchell Wilborn, appearing pro se, and respectfully move this honorable Court to voluntarily dismiss the pending actions. As grounds in support, Messrs. Wardell and Wilborn state as follows:

The Plaintiffs, as argued in their motion for reconsideration, do NOT wish to pursue a civil rights complaint against Renea Royster. They currently have an action pending against Renea Royster in the Ottawa County

Court of Common Pleas, Port Clinton, Ohio.

Consequently, this matter should be dismissed in its entirety without prejudice.

Respectfully submitted this 14th day of January, 2019.



W. Robert Wardell, Jr.

BOP #32096-013



Don Mitchell Wilborn

BOP #29431-001

P.O. Box 699

Estill, SC 29918-0699

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CERTIFICATE OF SERVICE

We hereby certify that on this 14th day of January, 2019, we served the MOTION TO VOLUNTARILY DISMISS ACTION by delivering___ mailing_**_ faxing___ same to all counsel or parties of record, as required by law:

Clerk

U.S. District Court

901 Richland St.

Columbia, SC 29201

DECLARATION UNDER PENALTY OF PERJURY

We declare (certify, verify, or state), under penalty of perjury, that the information in the foregoing Certificate of Service is true and correct. See 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed on 14 Jan., 2019, at Estill, South Carolina.



W. Robert Wardell, Jr.



Don Mitchell Wilborn

**Said pleading, if mailed, was deposited with prison officials for mailing in the prison's legal mail system, designated as "Legal Mail" and/or "Special Mail," on or before the last day for filing, pursuant to the "Mailbox Rule," and is deemed "filed" as of that date. Houston v. Lack, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988); United States v. McNeill, 523 Fed. App'x 979 (4th Cir. 2013) ("pro se litigant's papers are considered filed upon 'delivery to prison authorities, not receipt by the clerk.'"); Richards v. Thaler, 710 F.3d 573, 576 (5th Cir. 2013) (holding that the "mailbox rule" deems a pro se prisoner's pleading filed on the date it is delivered to prison officials for mailing); United States v. Ceballos-Martinez, 358 F.3d 732 (10th Cir.), revised and

superseded, 371 F.3d 713 (10th Cir.), reh'g denied en banc, 387 F.3d 1140 (10th Cir.), cert. denied, 125 S.Ct. 624 (2004); Jeffries v. United States, 748 F.3d 1310, 1314 (11th Cir. 2014) ("Under the prison mailbox rule, a pro se prisoner's court filing is deemed filed on the date it is delivered to prison authorities for mailing"); Williams v. McNeil, 557 F.3d 1287, 1290 n.2 (11th Cir. 2009); Washington v. United States, 243 F.3d 1299, 1301 (11th Cir. 2001) ("Absent contrary evidence, we will assume that a prisoner's filing 'was delivered to prison authorities the day he signed it.'"); Adams v. United States, 173 F.3d 1339, 1341 (11th Cir. 1999) ("a prisoner's motion is deemed filed on the date it is delivered to prison officials for mailing"); C.A.R.25(b); C.R.Civ.P. 5(e); C.R.Crim.P. 45(f); Fed.R.Civ.P. 5; Fed.R.App.P. 4(c); S.Ct.R.29.2; R. Governing §§ 2254 and 2255 Cases, codified at U.S. Dist. Cts. 3(d). First-class postage was prepaid and the envelope was properly addressed to counsel of record and the Court as indicated above. Where applicable, the pleading was submitted to the Clerk of Court for filing in the CM/ECF system or electronic filing system. Notice of Electronic Filing will be sent by the Clerk of Court to all registered CM/ECF or electronic filing participants.